

September 6, 2006 BZA



REQUEST ANALYSIS
AND
RECOMMENDATION

07AN0103

McBar Industries, Inc.

Bermuda Magisterial District
9130 Oak Lawn Street

REQUEST: A Variance to use a parcel of land which fronts a dedicated but unimproved public road for dwelling purposes in a Residential (R-7) District.

RECOMMENDATION

Recommend denial for the following reasons:

- A. As required by the Zoning Ordinance, there are no conditions upon which the request is based that are unique to the property and are not applicable generally to other properties in the area.
- B. There are no physical surroundings, shape or topographical conditions on this property that a particular hardship would result to the owner if the requirements of the Zoning Ordinance were carried out and a public road constructed to State standards.

GENERAL INFORMATION

Location:

This request lies on 1.75 acres and is known as 9130 Oak Lawn Street. Tax ID 792-670-5158 (Sheet 18).

Existing Zoning:

R-7

Size:

1.75 acre

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North - R-7; Residential and vacant
South - R-7; Residential and vacant
East - R-7; Residential and vacant
West - R-7; Vacant

Utilities:

Public water and sewer

Environmental Engineering:

There are several hundred acres up stream of this old parcel and no flood plain studies have been performed to indicate the location and elevation of the floodplain. Environmental Engineering could only support this request if the applicant agrees to have an engineer perform the study and it be approved by Environmental Engineering. This study must indicate that there is a buildable area on the lot outside the floodplain.

Transportation:

In order for the applicant to provide maintenance to this section of Oak Lawn Street, a license agreement must be obtained from the Board of Supervisors. The license agreement typically requires the applicant to perform all maintenance to the access road within the right of way. In similar situations throughout the County, residents often request the County to perform maintenance on the right of way even though a private maintenance agreement exists. The County has no funds budgeted for this service.

General Plan:

(Jefferson Davis Corridor Plan)

Residential
(2.51 to 4.0 units per acre)

DISCUSSION

The applicant requests a Variance to use a parcel of land which fronts along a dedicated, but unimproved, public road for dwelling purposes. The access to the dwelling will be over a fifty (50)

foot dedicated road from Oak Lawn Street to the subject property from Point A to Point B, as shown on the attached map.

The applicant provides the following justification in support of this request:

There is no public road frontage available. Without this Variance, I cannot build a single family dwelling.

The Department of Environmental Engineering (EE) has indicated that they have concerns relative to the location and elevation of the floodplain and the location of the Resource Protection Area (RPA) on the subject property. They have recommended that a 100 year flood plain and RPA be calculated and shown on a map to determine the location of building footprint for the proposed single family dwelling. Please note that staff has recommended Conditions 5 and 6 to address Environmental Engineering's (EE) concerns.

The Board of Zoning Appeals hears requests for no public road frontage when the subject property was recorded prior to 1980, is being subdivided and sold or given to a member of the property owner's immediate family, or complies with the plat validation process. In this case, the property must comply with the plat validation process.

The plat submitted with this application indicates a dedicated but unimproved public road. Within this unimproved public road, an access drive has been constructed of dirt, rock and gravel with little or no shoulder or drainage ditch. There are no dwellings constructed along this access road. Staff's field inspection revealed that the existing access road from Point A to Point B is currently acceptable and does not need to be improved at this time. However, staff suggests that the standard conditions be approved with this request if any conditions change in the future (pot holes, rutting, drainage, etc.).

The subject property is owned by Elizabeth B. Brookman. This request lies on 1.75 acres located approximately 150 feet off the western line of Oak Lawn Street. The access to the subject property will be across a fifty (50) foot dedicated but unimproved public road. The applicant plans to construct a single family dwelling on the subject property.

As required by the Zoning Ordinance, the applicant has provided no information which would serve as a basis for granting this Variance. Staff finds no physical surroundings, shape or topographical conditions on the property which would present a particular hardship to the owner if this Variance were denied. Staff finds no conditions upon which this request is based which are unique to the property and do not apply generally to other properties in the area.

This request is based on financial consideration rather than physical hardship or other conditions that are not applicable to other properties in the area. Therefore, staff cannot support this request.

Staff believes that the Board should deny this request for the reasons previously noted.



07AN0103
VARIANCE
SH 18

1,000 500 0 Feet

N

JEFFERSON DAVIS HWY

PERRYMONT RD

OAK LAWN ST

OAK LAWN ST

POINT A

POINT B





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